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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/599,808  | 10/10/2006  | Yosuke Endo          | SAT-16887           | 4898             |
| 40854   | 7590        | 06/23/2010           | EXAMINER            |                  |
| RANKIN, HILL & CLARK LLP<br>38210 GLENN AVENUE<br>WILLOUGHBY, OH 44094-7808 |             |                      |                     | DANEGA, RENEE A  |
| 3736  |             | ART UNIT             |                     | PAPER NUMBER     |
| NOTIFICATION DATE   |             | DELIVERY MODE        |                     |                  |
| 06/23/2010  |             | ELECTRONIC           |                     |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

40854@rankinhill.com  
spaw@rankinhill.com

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/599,808             | ENDO ET AL.         |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Renee Danega           | 3736                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 05 April 2010.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-5 and 7-20 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-5 and 7-20 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/26/10</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____ .                        |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim1, 3, 12, and 13-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dohno (EP 1324403).

- Regarding claims 1 and 14, Dohno teaches an external force control method and program for controlling an external force applied to an orthosis attached to the animal that makes a movement along with activities of the muscle fibers comprising a myoelectric potential measurement step of measuring a myoelectric potential that occurs in the body, and external force setting step of setting a value of an external force applied to the animal through the orthosis according to an external force function  $f(x)$  with the myoelectric potential as a variable on the basis of the measured value of the myoelectric potential; a motion variable measurement step of measuring a motion variable varying with the motion of the animal under the condition of the external force applied through the orthosis, a factor setting step of setting a value of a factor according to a factor function with the external force and the motion variable as variables on the basis of the set value of the external force and measured value of

the motion; a determining step for determining whether a deviation between the set value of the factor and target value is less than a reference value and an external force function setting step of setting a new external force function in such a way that the new set value of the factor approaches the target value if the deviation is equal or greater than the reference value of the determination step wherein the motion variable measurement comprises measuring the resultant force of an internal force exerted on the orthosis by the first living body portion caused by activities in the muscle fibers and an external force caused by an actuator and applied through the orthosis; and the factor setting step comprising setting the ratio of the external force to the resultant of the internal and external force as a factor less than themselves (column 7, lines 5-30) (column 7, line 49-column 8, line 7) (Figure 1, 4, 5-7).

- Regarding claims 2 and 5, Dohno teaches the external force setting step to include setting a coefficient so that the applied force is always proportional and never too much for the particular patient therefore eliminating the need for the determination step of a deviation (Figure 6-7) (column 7, lines 15-30).
- Regarding claim 3, Dohno teaches the external force function step comprising finding the external force target value according to the factor function on the basis of the measured value of the motion variable and the target value of the factor and setting the external force function in such a

way that the external force approaches the external force target value (column 7, lines 25-30).

- Regarding claim 12, Dohno teaches the method of determining to depend on the deviation being positive or negative relative to the threshold [0025]
- Regarding claim 13, this claim states the apparatus that performs the steps of the method of claim 1, thus the same rationale of rejection is applicable.
- Regarding claims 15-20, Dohno's first and second living body portions comprise a common living portion of the body, including the arm and leg (Figures 8, 9a-b, 12).

3. Claims 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dohno as applied to claims 3 and 1 above, and further in view of Haslam, II et al. (US 5413611).

- Regarding claim 4, Alastair modified by Dohno doesn't teach the external force setting step comprise setting an external force function such that the maximum measured value of the external force approaches the maximum value of the target. However, Haslam teaches a force control method in which the external force is controlled in such a way that the maximum measured force approaches the maximum target (column 10, lines 27-35). It would have been obvious in view of Haslam to provide for the external force to not exceed the target force in Dohno's device as this could damage whatever object is being gripped.

4. Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dohno as applied to claim 1 above, and further in view of Kawai et al (US 20040107780).

- Regarding claims 7-8, Dohno doesn't teach the motion variable step to include measuring a primitive motion variable varying with the motion of the animal and measuring the motion according to inverse dynamics model nor the motion state being determined by the primitive motion variable relative to the motion state. However, Kawai teaches an external force control method in which primitive motion variables (26) are measured and inputted to an inverse dynamics model (70) along with motion state data (21, 22, 23) in order to determine the motion state (Figure 3). It would have been obvious in view of Kawai to use this method in Dohno's force control method in order to account for secondary forces that are effecting the resulting force execution.

5. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dohno as applied to claim 1 above, and further in view of Davalli et al. (US 6740123).

- Regarding claim 9, Dohno doesn't teach the setting factor step depending on the measured values of external force and motion. However, Davalli teaches four band factors each depending from the bend of the wrist and EMG activity feedback which result in different force controls (Figure 3b). It would have been obvious in view of Davalli to provide for different

factors to be set for different external forces in Dohno's device in order to control different body parts.

- Regarding claim 10, Dohno doesn't teach the motion state determination step to depend in a primitive motion variable and a motion state wherein there is a new external force function responsive to each motion state. However, Davalli teaches motion state determination depending on a primitive motion variable (elbow bend) and motion state (elbow active) and a new force function for each motion state such as operate right and left wrists, flex and extend elbows (Figure 3b). It would have been obvious in view of Davalli to provide different force functions to correspond to different motion states in Dohno to provide for varying activity.
- Regarding claim 11, Dohno doesn't teach the determination step to comprise whether the deviating is less than the reference value on the basis of a target value factor for each motion state and the external force setting step comprising a new external force function on the basis of factor target value. However, Davalli teaches the determination step comprising whether the deviation is less than the reference value (bend or travel unit in figure) on the basis of three reads or factor target values that influence which force function is employed (Figure 3b). It would have been obvious in view of Davalli to provide a determination step of comparing value deviations in Dohno in order to ensure appropriate force exertion.

***Response to Arguments***

6. Applicant's arguments filed 4/3/09 have been fully considered but they are not persuasive in view of Dohno

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Renee Danega whose telephone number is (571)270-3639. The examiner can normally be reached on Monday through Thursday 8:30-5:00 eastern time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RAD

/Max Hindenburg/  
Supervisory Patent Examiner, Art Unit 3736